

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RENASANT BANK, INC.,

Plaintiff,

v.

1:15-cv-459-WSD

JOHN F. SMITHGALL, et al.,

Defendants.

OPINION AND ORDER

This matter is before the Court on the Moving Defendants,¹ John F. Smithgall, Hanover Group Holdings, LLC, Appalachian Company, Appalachian Assets, LLC, and Nacoochee Corporation’s (collectively, “Defendants”) Motion to Stay Preliminary Deadlines Pending Final Disposition of Motion to Dismiss [80] (“Motion to Stay”). Also before the Court is Defendants Ray Simmons, Elaine Smithgall, and Jason Smithgall’s Motion for Joinder to Motion to Stay [82]

¹ AJS Investment Group, LLC, Alaska Real Estate, L.L.C. (erroneously captioned as “Alaska Real Estate, LLC”), Center Investments, Inc., Eufala Corp., JFS Vision, LLC, JSDD, LLC, King Tract, L.L.C. (erroneously captioned as “King Tract, LLC”), KJS Invest Group, LLC, Rentprop, L.L.C. (erroneously captioned as “Rentprop, LLC”), Southfund Companies, Southfund Development II, Inc., Southfund Development III, Inc., Southfund Development, Inc., and Southfund Brothers, LLC (collectively, the “Moving Defendants”)

(“Motion for Joinder”).

I. BACKGROUND

On February 19, 2016, the Moving Defendants filed their Motion to Dismiss [79]. The same day, Defendants filed their Motion to Stay. On February 26, 2016, Defendants Ray Simmons, Elaine Smithgall, and Jason Smithgall filed their Motion for Joinder.

In their Motion to Stay, Defendants seek a stay of:

[A]ll preliminary deadlines and obligations in this action—including, without limitation, the deadlines to make initial disclosures, to conduct an early planning conference pursuant to Federal Rule of Civil Procedure 26(f) . . . , and to complete a Joint Preliminary Report and Discovery Plan—pending a final disposition of the *Motion to Dismiss* filed by the Moving Defendants herewith.

(Mot. to Stay at 2).

In support of their Motion to Stay, Defendants argue that, if the Court grants the Moving Defendants’ Motion to Dismiss, the “landscape of this litigation and the issues for discovery and discussion by the parties” will be “substantially alter[ed].” (Reply [88] at 3). Plaintiff Renasant Bank, Inc. (“Plaintiff”) argues that Defendants have not identified any “unanticipated or unforeseen circumstances that require staying or extending any deadlines in this case.” (Resp. [84] at 2-3).

II. DISCUSSION

A. Legal Standard

A district court has the discretion, under Rule 26(d)(2) of the Federal Rules of Civil Procedure, to grant a stay and alter the sequence of discovery “for the parties’ and witnesses’ convenience and in the interests of justice.” Fed. R. Civ. P. 26(d)(2).

B. Analysis

After consideration the parties’ arguments, the Court has determined that it is in the interests of justice to stay discovery with respect to the Moving Defendants in their capacity as parties to this matter.² The Court denies Defendants’ Motion to Stay preliminary deadlines, including initial disclosures, Joint Preliminary Report and Discovery Plan, and Rule 26(f) conference.³

III. CONCLUSION

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Defendants Ray Simmons, Elaine

² Party discovery generally includes interrogatories (Federal Rule of Civil Procedure (“Rule”) 33), Requests for Production (Rule 34), and Requests for Admission (Rule 36). This stay does not preclude discovery that may be required of non-parties.

³ Defendants Ray Simmons, Elaine Smithgall, and Jason Smithgall’s Motion for Joinder to Motion to Stay is granted.

Smithgall, and Jason Smithgall's Motion for Joinder to Motion to Stay [82] is **GRANTED**.

IT IS FURTHER ORDERED that Defendants' Motion to Stay [80] is **GRANTED IN PART** and **DENIED IN PART**. Defendants' Motion is **GRANTED**, and discovery is stayed with respect to the Moving Defendants in their capacity as parties to this matter. Defendants' Motion is **DENIED** with respect to Defendants' request to stay preliminary deadlines, including initial disclosures, Joint Preliminary Report and Discovery Plan, and Rule 26(f) conference.

SO ORDERED this 14th day of April, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE